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JOHN T. SCOTT III
(202) 624-2582

June 25, 1996

Mr. William F. Caton
Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, D.C. 20554

Re: CC Docket No. 95-185 Ex Parte Notice

Dear Mr. Caton:

This ex parte notice is submitted pursuant to Sections 1.1200 et seq. of the Commission's Rules to report that on June 24, 1996, S. Mark Tuller, Vice President - Legal and External Affairs, General Counsel and Secretary, Bell Atlantic NYNEX Mobile, Inc. (BANM), Francis Malnati, Director - External Affairs, BANM, and the undersigned outside counsel to BANM, met with the following staff of the Wireless Telecommunications Bureau: Karen Brinkmann, Daniel Grosh, Nenji Nakazawa, David Nall, Kathryn O'Brian and Walter Strack. The meeting addressed the status of BANM's negotiation of interconnection agreements with local exchange carriers. The attached materials were provided to Commission staff at the meeting.

Should there be any questions regarding this matter, please contact the undersigned.

Very truly yours,

John T. Scott, III

John T. Scott, III

cc: Ms. Karen Brinkmann
Mr. Daniel Grosh
Mr. Zenji Nakazawa
Mr. David Nall
Ms. Kathryn O'Brian
Mr. Walter Strack

CMRS-LEC Interconnection Status

LEC and State	Mutual Compensation	Effective Date
NYNEX		
New York	Yes	Aug-95
Massachusetts	Yes	Jul-96
Rhode Island	Yes	Jul-96
New Hampshire	Yes	May-96
Vermont	Yes	May-96
Bell Atlantic		
New Jersey	Yes	Jun-96
Pennsylvania	Yes	Jun-96
Delaware	Yes	Jun-96
Maryland	Yes	Jun-96
Washington DC	Yes	Jun-96
West Virginia	Yes	Jun-96
Virginia	Yes	Jun-96
SNET		
Connecticut	No	
Bell South		
North Carolina	No	
South Carolina	No	
USWest		
Arizona	No	
New Mexico	No	
SBC		
Texas	No	

Bell Atlantic NYNEX Mobile
180 Washington Valley Road
Bedminster, NJ 07921
908 306-7393
FAX 908 306-7529

Thomas F. Blum
Director - Interconnection

May 1, 1996

Ms. Carol Johnson
Manager of Interconnection Strategies
Southern New England Telephone Company
530 Preston Avenue
Meriden, Connecticut 06450

Re: **Wireless Interconnection**

Dear Ms. Johnson:

I am writing you on behalf of Bell Atlantic NYNEX Mobile ("BANM"). Reference is made to the December 15, 1995 draft wireless interconnection tariff that Tom Potter forwarded to the "Wireless Interconnection Team" on behalf of Southern New England Telephone Company ("SNET") for review and comment.

BANM recognizes that your proposed tariff was the product of discussions over many months between SNET and the wireless providers. However, as a result of the recent passage of the Telecommunications Act of 1996 ("the 1996 Act"), BANM cannot agree to the rates and terms proposed therein. The 1996 Act unequivocally imposes obligations on local exchange carriers such as SNET, and affords interconnection and reciprocal compensation rights to wireless telecommunications carriers, that are broader than those contained in either SNET's existing Generic Wireless Interconnection Tariff ("GWI"), your draft tariff, or the existing pre-GWI tariff.

As a result of the changes to the LEC/CMRS relationship effected by the 1996 Act as set forth below, BANM hereby requests that it immediately be allowed to obtain its interconnection services from the relevant portions of the same SNET tariff or agreements, and at the same rates as other telecommunications carriers, specifically Connecticut's Certified Local Exchange Carriers ("CLECs"). BANM also requests that effective immediately, SNET and BANM reciprocally compensate each other for terminating traffic, retroactively effective as of the date of the 1996 Act, February 8, 1996.

The requirement that local exchange carriers such as SNET provide equitable, nondiscriminatory interconnection to all telecommunications carriers is a pervasive concept throughout the 1996 Act. See, e.g., 47 U.S.C.§251; 47 U.S.C. §252(a). "[a] local exchange carrier shall make available any interconnection, service, or network element

provided under an agreement approved under this section to which it is a party to any other requesting telecommunications carrier upon the same terms and conditions as those in the agreement."

With respect to mutual compensation, Section 251 of the 1996 Act provides that "[e]ach local exchange carrier has the . . . duty to establish reciprocal compensation arrangements for the transport and termination of telecommunications." 47 U.S.C. §251(b)(5). Section 252 of the 1996 Act clarifies congressional intent by stating that:

> The terms and conditions for reciprocal compensation [shall not be considered] to be just and reasonable unless . . . such terms and conditions provide for the mutual and reciprocal recovery by each carrier of costs associated with the transport and termination on each carrier's network facilities of calls that originate on the network facilities of the other carrier. . . .

47 U.S.C. §252(d)(2)(A)(i) (emphasis added).

A review of the Department of Public Utility Control's Decision in Docket No. 95-06-17, Application of the Southern New England Telephone Company for Approval to Offer Unbundled Loops, Ports and Associated Interconnection Arrangements (December 21, 1995) and SNET's January 3, 1996 compliance tariff filing reveals that the rates and charges for interconnection and unbundled elements available to competitive local exchange carriers are appreciably lower than those currently available to wireless carriers such as BANM. This is true whether BANM obtains interconnection services from SNET under the existing GWI tariff or SNET's proposed December 15, 1995 tariff. This is precisely the type of inequitable discriminatory treatment prohibited by the 1996 Act.

BANM is entitled under the 1996 Act, and hereby expresses its desire, to obtain its interconnection services from the same relevant portions of the tariff or agreements currently available to Connecticut's ILECs.

In addition, a review of the Department of Public Utility Control's Decision in Docket No. 94-10-02, DPUC Investigation Into the Unbundling of the Southern New England Telephone Company's Local Telecommunications

Network-Reopened (January 17, 1996), reveals that SNET and CLECs have implemented a mutual compensation plan designed to reciprocally compensate each provider for terminating traffic on its network. As you know, wireless carriers, such as BANM currently pay SNET for wireless-originated traffic that terminates on SNET's network as part of the rates paid by wireless carriers under the GWI and existing pre-GWI tariffs. However, SNET affords no reciprocal compensation for land-to-mobile traffic terminated by wireless carriers. In fact, unlike most interconnection arrangements available throughout the nation, not only does SNET charge wireless carriers for mobile-to-land termination, but also for land-to-mobile traffic. Again, this arrangement is discriminatory and in direct contravention of the 1996 Act's requirement of terms and conditions for reciprocal compensation that are just and reasonable.

BANM requests that SNET implement, as of the date of this letter and retroactive to February 8, 1996, the mutual compensation plan and agreement currently available to other telecommunications carriers in the State of Connecticut. This letter should be regarded as a written order for such treatment. Any delay in implementing the equitable compensation arrangement will result in a retrospective true-up to insure that BANM is appropriately compensated for terminating LEC-originated traffic up to the date of implementation.

I await your prompt response. BANM looks forward to a long mutually beneficial relationship with SNET as we each move forward under the regulatory environment resulting from the 1996 Act.

Very truly yours,

Thomas C. Blum

Thomas C. Blum

TCB:jk

cc: Eileen DeVille (Southern New England Telephone)
Michael Phelan (Southern New England Telephone)

Southern New England Telephone
530 Preston Avenue
Meriden, Connecticut 06450
Phone (203) 634-5203
Facsimile (203) 235-6178

Carol D. Johnson
Manager- Interconnection Services
Network Marketing and Sales

May 24, 1996

Thomas C. Blum
Director - Government Affairs
Bell Atlantic NYNEX Mobile
180 Washington Valley Road
Bedminster, NJ 07921

Dear Mr. Blum:

I am in receipt of your letter dated May 7, 1996 requesting SNET to implement a reciprocal compensation plan for wireless carriers (WC) retroactive to the effective date (February 8, 1996) of the Telecommunications Act of 1996 (1996 Act).

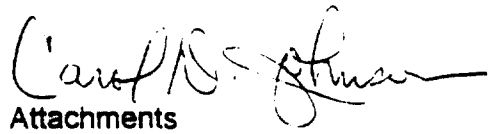
SNET fully understands your desire to establish a reciprocal compensation plan that is just and reasonable. As you may be aware, SNET filed a proposal for mutual compensation for WC with the Connecticut Department of Public Utilities (DPUC) on March 31, 1995, pursuant to Order No. 5 in Docket 94-08-02. In that filing SNET proposed to compensate WC for local traffic originating on SNET's network and terminating on WC networks through their switch. However, on September 22, 1995 the DPUC, in Docket 95-04-04, did not approve SNET's proposal. In the conclusion of Docket 95-04-04 the DPUC stated, **"in the absence of authority to impose local service obligations and responsibilities on wireless carriers, the Department will not authorize mutual compensation between SNET and such carriers"**.

While SNET recognizes that the 1996 Act addresses interconnection obligations of local exchange carriers, there are several policy issues being debated in the regulatory arena to determine whether WC are to be included in the scope of the 1996 Act. The FCC states in its Notice of Proposed Rulemaking (NPRM) relative to implementation of the 1996 Act, CC Docket 96-98, **that it is seeking comment on whether Commercial Mobile Radio Services (CMRS) are included in the scope of Section 251** (See Attached Pages 58 and 59 of CC Docket 96-98). The FCC also states in its NPRM relative to Interconnection Between Local Exchange Carriers and CMRS providers, CC Docket 95-185, that the FCC **"declined to preempt state regulation over the rates for [WC] intrastate interconnection"** (See attached Page 11 of CC Docket 95-185).

Consequently, until a decision altering SNET's obligations is reached in either of these dockets, SNET is unable to establish a reciprocal compensation for WC at this time. However, I welcome the opportunity to continue the good faith negotiations that have taken place during the past two years to seek a mutually agreed upon resolution to your request.

If you have any questions or would like to discuss this matter further, please feel free to contact me on (203) 634-5203.

Sincerely yours,



Attachments

cc: Mike Phelan
Jim Van Der Beek

"network element."[226] There we noted that a network element appears to refer to a facility or function, rather than a jurisdictionally distinct service, such as switching for intrastate exchange access. We also note that viewing a network element as a jurisdictionally distinct service might be inconsistent with the pricing standards set forth in section 252(d)(1), which suggest that prices for these elements should be set on the basis of some measure of economic costs, not jurisdictionally separated costs. Moreover, as with section 251(c)(2), allowing interexchange carriers to circumvent Part 69 access charges by subscribing under section 251(c)(3) to network elements solely for the purpose of obtaining exchange access may be viewed as inconsistent with other provisions in section 251, such as sections 251(i) and 251(g), and contrary to Congress' focus in these sections on promoting local competition. Lastly, such a reading of the statute may effect a fundamental jurisdictional shift by placing interstate access charges under the administration of state commissions. We seek comment on these issues.

165. If a carrier that provides interexchange toll services purchases access to unbundled network elements in order to provide such toll services -- either alone if the statute permits it, or in conjunction with local exchange services -- we tentatively conclude that the incumbent LEC may not assess Part 69 access charges in addition to the charges assessed for the network elements determined under sections 251 and 252. Section 252, we note, requires that charges for elements shall be based on cost.[227] Thus, the additional imposition of Part 69 access charges would result in total charges not based on cost and thus would seem inconsistent with the statutory scheme. We seek comment on this conclusion. In commenting, parties may want to discuss the relevance of section 272(e)(3). That section requires BOCs, after entering the in-region interexchange business, to impose on their affiliates -- or impute to themselves -- access charges no lower than what they charge to unaffiliated interexchange carriers. In light of the above discussion and its possible implications for our Part 69 access charge regime, we repeat here our intention of taking up access charge reform in the very near future.

(2) Commercial Mobile Radio Services

166. We next seek comment on whether interconnection arrangements between incumbent LECs and commercial mobile radio service (CMRS) providers fall within the scope of section 251(c)(2). As indicated below in the discussion of section 251(b)(5), we also seek comment on the separate but related question of whether LEC-CMRS transport and termination arrangements fall within the scope of section 251(b)(5).

167. With respect to section 251(c)(2), because the obligations of that section, and of section 251(c) generally, apply only to incumbent LECs, we tentatively conclude that CMRS providers are not obliged to provide interconnection to requesting telecommunications carriers under the provision of section 251(c)(2). CMRS providers are not encompassed by the 1996 Act's definition of "incumbent local exchange carrier" discussed above.

168. LEC-CMRS interconnection arrangements may nonetheless fall within the scope of section 251(c)(2) if CMRS providers are "requesting telecommunications carrier[s]" that seek interconnection for the purpose of providing "telephone exchange service and exchange access." CMRS are within the definition of "telecommunications services" in section 3(46) of the 1934 Act, as amended, because they are offered "for a fee directly to the public." Similarly, CMRS providers are within the definition of "telecommunications carrier[s]" in section 3(44) because they are "provider[s] of telecommunications services." The phrase "telephone exchange service"

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[226] See discussion, *supra*, II.B.2.c regarding the definition of "network element."

[227] 1996 Act, sec. 101, § 252(d)(1).

is arguably broad enough to encompass at least some CMRS. "[T]elephone exchange service" is defined as either "(A) service within a telephone exchange, or within a connected system of telephone exchanges within the same exchange area operated to furnish to subscribers intercommunicating service of the character ordinarily furnished by a single exchange, and which is covered by the exchange service charge, or (B) comparable service[s]."[328] We seek comment on which if any CMRS, including voice-grade services, such as cellular, PCS, and SMR, and non-voice-grade services, such as paging, fit this definition. In commenting, parties should address any past Commission statements that bear on the matter.[329]

169. If CMRS providers seeking interconnection from incumbent LECs fall within the purview of section 251(c)(2), or of section 251(b)(5), there arises the question of the relationship between section 251 and another recent addition to the 1934 Act that also addresses interconnection between CMRS providers and other common carriers, section 332(c). Although we seek comment on the relationship of the two provisions in this proceeding, we note that LEC-CMRS interconnection pursuant to section 332(c) is the subject of its own ongoing proceeding in CC Docket No. 95-185, which the Commission initiated prior to the enactment of the 1996 Act. We also note that we sought comment in that proceeding generally on the issue of the interplay of section 251 and section 332(c) and have received extensive comments. We intend that CC Docket No. 95-185 remain open and we do not want to ask interested parties to repeat their arguments on issues they have already addressed in that docket. Therefore, in this proceeding, we ask parties to address any specific issues presented in this *Notice* that are not already addressed in CC Docket No. 95-185. In submitting additional comments, parties may want to address the possibility that, if both sections 251 and 332(c) apply, the requesting carrier would have to choose the provision under which to proceed. Parties may also want to address whether it would be sound policy for the Commission to distinguish between telecommunications carriers on the basis of the technology they use. The Commission retains the prerogative of incorporating by reference comments filed in the section 332(c) proceeding into the record of this proceeding, and of acting on these pending rulemakings in a manner that best serves the interests of reasoned decisionmaking.

(3) Non-Competing Neighboring LECs

170. We turn next to whether interconnection agreements between incumbent LECs and non-competing neighboring LECs are subject to section 251(c)(2).[330] If they are, section 252 would appear to require that such arrangements be made public and the terms and conditions of the agreements made available to other carriers. Whether this is true of *existing* arrangements between incumbent LECs and non-competing neighboring LECs depends on the resolution of the issue, discussed above, of existing agreements generally.

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[328] 47 U.S.C. § 3(47). Section 3(a)(1) of the 1996 Act amended the definition in the 1934 Act by adding part (B) above.

[329] *See, e.g., In re Equal Access and Interconnection Obligations Pertaining to Commercial Mobile Radio Services*, 9 FCC Rcd 5408, 5453 (1994) (*quoting The Need to Promote Competition and Efficient Use of Spectrum for Radio Common Carrier Services*, Policy Statement on Interconnection of Cellular Systems, 59 Rad. Reg. 2d 1275, Appendix B at 1283-85 (1986)); *Amendment of the Commission's Rules To Permit Flexible Service Offerings in the Commercial Mobile Radio Service*, Notice of Proposed Rulemaking, WT Docket No. 96-6, FCC 96-17, 11 FCC Rcd 2445 (Jan. 25, 1996) at para. 20.

[330] As in the LEC-CMRS context, the separate but related question of whether neighboring LEC transport and termination arrangements fall within the scope of section 251(b)(5) is noted below, in the section dealing with that provision.

FCC Docket 95-185

Second Report also implemented the Budget Act's requirement that the Commission order a common carrier, pursuant to the provisions of Section 201 of the Act, to establish physical interconnections with any CMRS provider that requests reasonable interconnection.

20. In the *CMRS Second Report*, we found that there is no distinction between a LEC's obligation to offer interconnection to cellular carriers and all other CMRS providers, including PCS providers, and thus we required LECs to provide reasonable and fair interconnection for all commercial radio services.[17] We determined that it is in the public interest to require LECs to provide the type of interconnection reasonably requested by all CMRS providers. We also applied the same jurisdictional principles to CMRS as we had for cellular carriers prior to the passage of the Budget Act: we asserted plenary jurisdiction over the physical plant used in the interconnection of CMRS carriers, but we declined to preempt state regulation over the rates for intrastate interconnection, unless the charge for the intrastate component of interconnection was so high that the price effectively precluded interconnection.[18]

21. We also established three requirements applicable to LEC provision of reasonable interconnection to CMRS providers. First, we applied the same principle of mutual compensation that we had already adopted for LEC-cellular interconnection.[19] This principle requires LECs to compensate CMRS providers for the reasonable costs incurred by such providers in terminating traffic that originates on LEC facilities. Similarly, CMRS providers are required to provide such compensation to LECs in connection with wireless-originated traffic terminating on LEC facilities.[20] Second, we required LECs to establish reasonable charges for interstate interconnection provided to CMRS licensees, which should not vary from the charges established by LECs for interconnection provided to other mobile service providers.[21] Third, in determining the type of interconnection that is reasonable for a CMRS system, we held that the LEC may not deny to a CMRS provider any form of interconnection arrangement that the LEC makes available to any other carrier or other customer, unless the LEC meets its burden of demonstrating that the provision of such interconnection is either not technically feasible or economically reasonable.

22. In July 1994, we issued a *Notice of Proposed Rulemaking and Notice of Inquiry* to address the interconnection obligations of LECs to CMRS providers and CMRS providers

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[17] *Id.* at 1497-98, para. 230.

[18] *Id.* at 1498, para. 231.

[19] *Declaratory Ruling*, 2 FCC Rcd at 2915.

[20] *CMRS Second Report*, 9 FCC Rcd at 1498, para. 232.

[21] *Id.* at 1498, para. 233.

STATE OF CONNECTICUT

DEPARTMENT OF PUBLIC UTILITY CONTROL
ONE CENTRAL PARK PLAZA
NEW BRITAIN, CT 06051

DOCKET NO. 95-04-04 DPUC INVESTIGATION INTO WIRELESS MUTUAL COMPENSATION PLANS

September 22, 1995

By the following Commissioners:

Thomas M. Benedict
Reginald J. Smith
Jack R. Goldberg

DECISION

DECISION

I. INTRODUCTION

On July 1, 1994, Public Act 94-83, "An Act Implementing The Recommendations Of The Telecommunications Task Force" (the Public Act or Act), became Connecticut law. The Act is a broad strategic response to the changes facing the telecommunications industry in Connecticut. The technological underpinnings, the framework for a more participative, and ultimately more competitive, telecommunications market, and the role of regulation envisioned by the legislature are essential to the future realization and public benefit of an "Information Superhighway" in Connecticut.

At the core of the Public Act are the principles and goals articulated therein. Section 2 (a) of the Act provides in pertinent part:

> Due to the following: affordable, high quality telecommunications services that meet the needs of individuals and businesses in the state are necessary and vital to the welfare and development of our society; the efficient provision of modern telecommunications services by multiple providers will promote economic development in the state; expanded employment opportunities for residents of the state in the provision of telecommunications services benefit the society and economy of the state; and advanced telecommunications services enhance the delivery of services by public and not-for-profit institutions, it is, therefore, the goal of the state to (1) ensure the universal availability and accessibility of high quality, affordable telecommunications services to all residents and businesses in the state, (2) promote the development of effective competition as a means of providing customers with the widest possible choice of services, (3) utilize forms of regulation commensurate with the level of competition in the relevant telecommunications service market, (4) facilitate the efficient development and deployment of an advanced telecommunications infrastructure, including open networks with maximum interoperability and interconnectivity, (5) encourage shared use of existing facilities and cooperative development of new facilities where legally possible, and technically and economically feasible, and (6) ensure that providers of telecommunications services in the state provide high quality customer service and high quality technical service.

Conn. Gen. Stat. § 16-247a (a).

The central premise of the legislation is that broader participation in the Connecticut telecommunications market will be more beneficial to the public than will broader regulation. It is significant, however, that the Act does not chart a detailed plan for realization of its goals and compliance with its principles. Rather, the Act entrusts the Department of Public Utility Control (Department) with the responsibility of implementing both the letter and spirit of its important provisions; the Act thus endows

the Department with broad powers and procedural latitude as it seeks to achieve the legislative goals through the facilitation of the development of competition for all telecommunications services.

In light of the Public Act, the Department's efforts must facilitate market conditions and create regulatory conditions that will maximize the benefits of future competition for the user public of Connecticut. As articulated by the Department's Chairman, Reginald J. Smith, during the June 23, 1994 technical meeting in Docket No. 94-05-26, General Implementation of Public Act 94-83, the passage of Public Act 94-83 places the Department and the telecommunications industry at an unprecedented point in Connecticut regulatory history with an opportunity to define a markedly different future for Connecticut telecommunications. The Department, therefore, established a framework for the implementation of Public Act 94-83 that would allow it the opportunity to fully and publicly explore all the alternatives available to it under the terms and conditions of the legislation and establish therefrom appropriate regulatory mechanisms to effect the legislative intent that telecommunications services be regulated "in a manner designed to foster competition and protect the public interest." The implementation framework involves four phases: the initial conceptual infrastructure phase, the competition phase, the alternative regulation phase and the holding company affiliate phase.

The Conceptual Infrastructure Phase consisted of Docket No. 94-07-01, The Vision For Connecticut's Telecommunications Infrastructure, in which a Decision was issued on November 1, 1994. The Department initiated that docket in recognition of the fact that effective and efficient implementation of Public Act 94-83 required at the outset an investigation of the state's telecommunications infrastructure which is the foundation for the provision of all telecommunications services. In its Decision, therefore, the Department identified the attributes that will be required of any future infrastructure to achieve the Act's goals, articulated intended Department initiatives to facilitate the development of a future infrastructure that exhibits those identified attributes and identified issues to be more fully explored in subsequent implementation dockets.

To begin the Competition Phase, in July of 1994, the Department initiated eight highly focused, limited discovery dockets to address the issues raised by the legislature's commitment to broader market participation in Connecticut: Docket No. 94-07-02, Development of the Assumptions, Tests, Analysis, and Review to Govern Telecommunications Service Reclassifications in Light of the 8 Criteria Set Forth in Section 6 of Public Act 94-83; Docket No. 94-07-03, DPUC Review of Procedures Regarding the Certification of Telecommunications Companies and of Procedures Regarding Requests by Certified Telecommunications Companies to Expand Authority Granted in Certificates of Public Convenience and Necessity; Docket No. 94-07-04, DPUC Investigation into the Competitive Provision of Local Exchange Service in Connecticut; Docket No. 94-07-05, DPUC Investigation into the Competitive Provision of Customer Owned Coin Operated Telephone Service in Connecticut; Docket No. 94-07-06, DPUC Investigation into the Competitive Provision of Alternative Operator Service in Connecticut; Docket No. 94-07-07, DPUC Investigation of Local Service Options, Including Basic Telecommunications Service Policy Issues and the Definition

EXHIBIT C

and Components of Basic Telecommunications Service; Docket No. 94-07-08, DPUC Exploration of Universal Service Policy Issues; and Docket No. 94-07-09, DPUC Exploration of the Lifeline Program Policy Issues. Those proceedings have been completed and Final Decisions issued.

The Competition Phase also consists of currently opened dockets regarding the Conn. Gen. Stat. § 16-247b mandate to unbundle "the noncompetitive and emerging competitive functions of a telecommunications company's local telecommunications network that are used to provide telecommunications services and which . . . are reasonably capable of being tariffed and offered as separate services." Docket No. 94-10-02, DPUC Investigation into the Unbundling of the Southern New England Telephone Company's Local Telecommunications Network (Final Decision issued on September 22, 1995); Docket No. 94-11-03, DPUC Investigation into the Unbundling of the New York Telephone Company's Local Telecommunications Network; and Docket No. 94-11-06, DPUC Investigation into the Unbundling of the Woodbury Telephone Company's Local Telecommunications Network (the latter two dockets are currently in development stages).

At the request of the participants in the unbundling proceedings, the Department initiated the instant docket to separately examine the issue of mutual compensation as applied to wireless carriers. In agreeing to examine this issue separately from discussions of wireline compensation, the Department did not suggest that it had concluded that sufficient differences exist between wireless service providers and wireline service providers to warrant fundamentally different compensation eligibility requirements or methodologies. Instead, the Department conceded to the request for a separate inquiry as a courtesy to the participants' interest in examining the associated issues of each in a more expeditious manner than was possible with a combined investigation.

In addition to the unbundling proceedings and the wireless compensation investigation, the Competition Phase will include a companion investigation of selective participative architecture issues that will impact the achievement of competition as discussed by this Department in Docket No. 94-07-01 and which emerge in consequence of the unbundling dockets. A docket for that investigation has been opened, Docket No. 94-10-04, DPUC Investigation into Participative Architecture Issues. The Department will also sponsor an examination of quality of service performance standards compelled by changes in provider responsibilities in a participative market such as that envisioned by Public Act 94-83.

Critical to effective implementation of both the Competition Phase and the Alternative Regulation Phase, which are being conducted concurrently, the Department initiated individual investigations of each of the state's incumbent telephone companies' (local exchange carriers (LECs)) costs of providing telecommunications services for the expressed purpose of constructing a financial and procedural framework for use by the Department in evaluating the unbundling and pricing initiatives to be later proposed by those telephone companies: Docket No. 94-10-01, DPUC Investigation into The Southern New England Telephone Company's Cost of Providing Service (Final

Decision issued on June 15, 1995); Docket No. 94-11-02, DPUC Investigation into the New York Telephone Company's Cost of Providing Service; and Docket No. 94-11-05, DPUC Investigation into the Woodbury Telephone Company's Cost of Providing Service (the latter two dockets are currently in development stages). With similar intent, the Department initiated individual companion dockets to review each local exchange carrier's depreciation policies and practices: Docket No. 94-10-03, DPUC Investigation into The Southern New England Telephone Company's Intrastate Depreciation Rates (Draft Decision to be issued on or about September 26, 1995); Docket No. 94-11-04, DPUC Investigation into The New York Telephone Company's Intrastate Depreciation Rates; and Docket No. 94-11-07, DPUC Investigation into The Woodbury Telephone Company's Intrastate Depreciation Rates (the latter two dockets are currently in development stages). In addition to their importance to this and other unbundling proceedings, the detailed financial reviews are essential to full and fair examination of the impact upon competition of any alternative regulatory framework or treatment of the local exchange carrier community by this Department in the future. Findings, conclusions and recommendations of this Department developed in the context of these proceedings will serve as a foundation in future proceedings wherein the Department will consider specific requests filed by the incumbent telephone companies for increased discretionary authority and proscribed regulatory participation in the telecommunications services business. The Southern New England Telephone Company has filed such a request for alternative regulation with this Department, which request is currently under review and consideration in Docket No. 95-03-01, Application of The Southern New England Telephone Company for Financial Review and Proposed Framework for Alternative Regulation.

Finally, the Department has initiated Docket No. 94-10-05, DPUC Investigation of The Southern New England Telephone Company Affiliate Matters Associated with the Implementation of Public Act 94-83. In this proceeding the Department will examine the financial, structural and operational impact of broader competition and of any increased discretionary authority that may be provided SNET by the past and future actions of this Department. Although the docket is currently open, the Department has deferred active investigation of holding company structure and affiliate relationships to a point closer to the end of the implementation period, thereby permitting construction of a better set of preliminary policies to guide the Department's investigation and to give the participants a more definitive planning framework for the future.

Public Act 94-83 presents a significant challenge to a number of regulatory principles that historically have guided Department decisions. Earlier statutory authority specifically focused on maximizing public benefit of telephonic technology by authorizing only a single telecommunications service provider for any given market. The Department, therefore, was able to direct the attention solely at regulating the conduct of a single provider against a desired public standard of reasonably affordable and readily available telephone service. Under provisions of Public Act 94-83, the Department faces an unprecedented task of managing the introduction of broader participation into a heretofore single-provider market without unduly risking the availability, accessibility and affordability of basic telecommunications services to all Connecticut users. The Department intentionally designed the implementation process

EXHIBIT C EXHIBIT D

to chart an orderly transition to effective competition such that the full scope and scale of benefits envisioned by the Connecticut legislature in enacting Public Act 94-83 may be realized. The Department's implementation decisions to date have consistently reflected its stated commitment to establishing a regulatory framework that affords fair competition among incumbent providers and new competitors while protecting the Connecticut public's interest in highly accessible, readily available and reasonably affordable telecommunications services.

II. DOCKET SCOPE AND PROCEDURE

On March 31, 1995, pursuant to the Department's prior directives in Docket No. 94-10-02, Docket No. 94-10-04 and Docket No. 94-08-02, Application of the Southern New England Telephone Company to Offer a Generic Wireless Interconnection Service, the Southern New England Telephone Company (SNET), submitted a proposed mutual compensation plan for wireline and wireless services for consideration by this Department. SNET stated that its proposed mutual compensation plan for the wireless carriers (hereafter referred to as WCP or the Plan) was developed in concert with the proposed compensation plan for certified local exchange carriers (CLECs) introduced separately in Docket No. 94-10-02. According to SNET, the WCP was designed to establish a compensation plan that would provide for each network participant to be compensated commensurate with any use by a provider to complete a local call on another provider's network. Though the proposed Plan is similar in design to the wireline compensation plan submitted by SNET in Docket No. 94-10-02, the WCP limits eligibility for compensation to network providers that are licensed by the Federal Communications Commission (FCC) under Parts 22 and 90 of the FCC's rules and that operate a switching facility which exchanges both originating and terminating local voice/data calls with SNET. WCP, p. 2. Of the interested participants in this proceeding, only Bell Atlantic NYNEX Mobile, Litchfield Acquisition Corporation, Springwich Cellular Limited Partnership and Nextel Communications, Inc. currently meet the licensing qualification proposed in SNET's WCP

At the April 5, 1995 Technical Meeting in Docket No. 94-10-02, pursuant to the participants' request, the Department established the instant proceeding to further investigate the need for, and constructs of, any mutual compensation plan for wireless telecommunications services. As noted above, the compensation issue was separated from Docket No. 94-10-02 at the participants' request, in order to afford full and fair opportunity to examine the wireless mutual compensation issue and to avoid any unnecessary delay in the investigation of the issues in Docket No. 94-10-02. Tr. 4/5/95, p. 219. Pursuant to Notice dated May 11, 1995, the Department announced its intention to hold a public hearing on May 24, 1995, to consider fully the matter of mutual compensation for wireless carriers. On May 15, 1995, parties and intervenors to the instant docket submitted to the Department a Motion for Extension of Time and Modification of the Hearing Schedule (Motion).[1] The Motion requested among other

[1] The Motion was submitted by the Southern New England Telephone Company, Bell Atlantic NYNEX Mobile, Springwich Cellular L.P. Litchfield Acquisition Corporation and Nextel Communications, Inc.

things that the public hearing scheduled for May 24, 1995, focus solely on the eligibility for mutual compensation of wireless paging services. Motion, p. 3.[2] The Motion was granted on May 24, 1995. Accordingly, after hearing which was continued without date, the Department issued an Interim Draft Decision on June 5, 1995, addressing the limited issue of mutual compensation eligibility requirements for paging services. All participants were afforded opportunity to submit written exceptions and present oral argument on the Interim Draft Decision; all participants waived the right to present oral argument.

Pursuant to Notice dated June 26, 1995, the Department continued the hearing in this matter to July 27, 1995. The scope of that hearing was consideration of whether cellular carriers, Specialized Mobile Radio (SMR) providers, Personal Communication Service (PCS) providers and Enhanced Mobile Radio Service (ESMR) providers are eligible for mutual compensation.

The Department issued a Second Draft Decision in this docket on September 1, 1995, addressing wireless mutual compensation issues for all wireless services, i.e. paging service, cellular service, Specialized Mobile Radio (SMR) service, Personal Communication Service (PCS) and Enhanced Mobile Radio Service (ESMR). Pursuant to Notice, all parties and intervenors were afforded opportunity to file written exceptions and to present oral argument on the Second Draft Decision. All participants waived the right to present oral argument.

III. POSITIONS OF PARTICIPANTS

A. THE SOUTHERN NEW ENGLAND TELEPHONE COMPANY (SNET)

SNET proposes to limit eligibility for mutual compensation to those service providers licensed by the FCC pursuant to the terms, conditions and qualifications prescribed by the FCC rules, Parts 22 or 90. SNET further limits the universe of eligible participants to those that own and operate a switching facility that exchanges both originating and terminating local voice/data calls with SNET.[3] SNET states that the

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[2] On May 16, 1995, Paging Network, Inc. objected to the Motion because it did not consider the rights and involvement of paging carriers in this proceeding. Specifically, the paging carriers were not afforded the opportunity to file rebuttal testimony.

[3] Such a limitation would exclude paging services from mutual compensation, because the paging terminal is not a switching facility. OCC states that traffic sent to a LEC, CLEC or cellular provider is terminated on the paging provider's transmission network. According to OCC, pagers also incur termination costs regardless of whether their facility is designated as a switching facility. Collins Testimony, p. 6. Message Center Beepers (MCB) argues that SNET's requirements for qualification for mutual compensation based upon access to operator services and E911 capability are irrelevant and unfounded. MCB maintains that wireless paging carriers are entitled to mutual compensation as any other FCC licensed commercial mobile radio service (CMRS) wireless provider. Jubon Rebuttal Testimony, p. 2. Paging Network, Inc. likewise disagrees with the SNET proposal and states that SNET limits compensation to wireless carriers in artificial and inequitable ways by requiring the operation of a switching facility which both originates and terminates local calls with SNET. Jackson Testimony, p. 8.

WCP provides compensation to wireless carriers at a level that is commensurate with the costs incurred by the interconnected provider to terminate a local call. According to SNET, the concept of mutual compensation assumes a co-carrier relationship between SNET and the interconnected network provider where there is a mutual exchange of traffic between the respective parties and shared public interest responsibilities such as E911.

B. OFFICE OF CONSUMER COUNSEL (OCC)

OCC states in its limited submission that all providers of wireless services, irrespective of the basis for their licensing authority, should be compensated as co-carriers in every instance where they terminate incoming telecommunications traffic. OCC, therefore, makes no distinction in its eligibility requirements among paging service providers, cellular service providers, commercial mobile radio service providers, specialized mobile radio service providers or personal communications services providers, arguing that all should be considered co-carriers. According to OCC, the FCC has specifically concluded that wireless carriers are co-carriers, not customers, and are rightfully entitled to be treated as such in the network. Collins Testimony, p. 5.

C. MESSAGE CENTER BEEPERS (MCB)

MCB argues that all FCC licensed CMRS providers are entitled, by FCC order (Second Report and Order of Docket No. 93-252, In the Matter of Implementation of Sections 3(n) and 332 of the Communications Act) to mutual compensation for handling interstate traffic. MCB suggests there is no reasonable basis for differentiating between the responsibilities of CMRS firms in transporting interstate traffic and intrastate traffic that would support different treatment by this Department. MCB, therefore, recommends that eligibility requirements for mutual compensation for transporting intrastate traffic be no different from those used by the FCC for interstate traffic. Furthermore, MCB proposes that wireless service providers be compensated by, and provide compensation to, other local providers using a set of rate elements common to all local service providers irrespective of whether they are wireline-based or wireless-based service providers. Jubon Testimony, p. 15.

E. PAGING NETWORK, INC. (PAGENET)

Pagenet suggests in its submissions that paging services providers originate and terminate communications traffic in a manner that mirrors the services provided by LECs, CLECs, cellular services providers and others. Pagenet contends that whether a call is terminated on a wireline network or any one of a number of alternative wireless networks, it is still by definition a call. Therefore, by such an accepted definition, paging services providers are rightfully entitled to compensation for the termination on their paging networks of calls originated on any other provider's network. Pagenet maintains that SNET's specific Plan purposefully limits compensation to wireless carriers by imposing artificial qualifications and inequitable treatment of market participants. Specifically, Pagenet objects to any requirement that an eligible party operate a switching facility which both originates and terminates local calls with SNET. According

to Pagenet, the requirement to both originate and terminate local voice/data calls with SNET is extremely prohibitive and may unfairly exclude paging carriers from receiving fair compensation for the costs incurred by it for terminating call traffic placed to its network. Pagenet argues that paging services providers should be appropriately compensated for the functions they provide on both a technical and equitable basis. According to Pagenet, it is discriminatory for SNET to unilaterally exclude paging services from compensation by imposing artificial requirements. Jackson Testimony, pp. 7-9.

F. NEXTEL COMMUNICATIONS, INC. (NEXTEL)

Nextel describes itself as a "digital mobile telephone and alphanumeric messaging services" provider in Connecticut. According to Nextel, such services are provided via use of Nextel facilities and interconnection with the Public Switched Telephone Network. Nextel also provides dispatch services that employ wireless technologies and make no use of public switched network services. Nextel operates under authority granted it by the FCC pursuant to Specialized Mobile Radio licenses issued under the terms, conditions and qualifications of Pt. 90 of FCC rules. Nextel Written Exceptions to Interim Draft Decision, pp. 1-2.

Nextel submits that the FCC has purposefully preempted state and local regulation of LEC interconnection to CMRS providers. According to Nextel, the FCC ruled that as part of the terms of reasonable interconnection, LECs must provide mutual compensation to CMRS providers, including compensation to such providers for all calls terminated on their network. Id., pp. 8-10. Nextel suggests that these actions by the FCC will limit the scope of any independent action that this Department might consider or impose upon the participants.

G. LITCHFIELD ACQUISITION CORPORATION (LITCHFIELD)

Litchfield Acquisition constructs its submission in this proceeding upon the implicit conclusion that some form of compensation is appropriate between LECs and cellular services providers. However, Litchfield does not pursue the question of whether interconnected network providers other than cellular services providers are equally entitled to compensation. Furthermore, Litchfield suggests that a compensation plan must promote the fundamental legislative goals of reasonable and affordable telecommunications services. To this end, Litchfield advocates three principles for pricing the interchange of traffic:

> First, each carrier should bear the costs of providing service from and to its users to the point of carrier network interconnection. Second, prices charged, if any, should reflect the costs incurred by each carrier in terminating traffic originated on the other carrier's system. The costs of the landline incumbent local carrier function [serve] as a reasonable surrogate for the costs of the cellular system. Third, compensation should be mutual. Because the cellular carrier pays the landline carrier charges for completing the traffic from the cellular network then the landline carrier should pay cellular carriers when landline customers make calls that are completed on the cellular system.

Mounsey Testimony, pp. 2-3.

Litchfield, therefore, asserts that, contrary to SNET's contention, there is no technical reason why interconnection between wireline and wireless carriers should be handled any differently between different local wireline carriers. According to Litchfield, wireline, wireless and, in the future, PCS providers should all be treated equally as they all interconnect in the same way and all provide a common carrier service within local service areas. Id., p. 3.

H. SPRINGWICH CELLULAR LIMITED PARTNERSHIP (SPRINGWICH)

Springwich defines mutual compensation as an administrative mechanism through which co-carriers compensate each other for terminating each other's traffic. Furthermore, Springwich suggests that mutual compensation is necessary to facilitate competitive development. However, for compensation to be "mutual," Springwich believes that co-carriers must offer to compensate each other at the same rate for the same component of service provided by the other party. In this way, according to Springwich, both carriers will have adequate incentive to fulfill their responsibilities in the most efficient manner possible. Separately, Springwich submits that wireless/landline mutual compensation need not necessarily be set at the same level or employ the same pricing structure as mutual compensation between competitive landline service providers; however, Springwich strongly recommends to the Department that the structures and level of wireless/landline mutual compensation be configured in such a way as not to promote bypass of the landline network. Mangini Testimony, pp. 3-4.

I. BELL ATLANTIC NYNEX MOBILE (BELL ATLANTIC)

Bell Atlantic asserts that the discussion presented in this proceeding about the need for and use of a mutual compensation mechanism is tacit recognition by the industry and the regulatory community that the responsibility for effectuating completion of a call from origination to termination will be a shared responsibility of many providers – each of whom will incur a certain element of cost in performing its respective responsibilities. According to Bell Atlantic, mutual compensation is generally considered to be the manner by which each network participant is compensated for its network contribution to the termination of telecommunications messages. Bell Atlantic

asserts that under a preferred mutual compensation plan, each carrier would be fairly compensated for the use of its network to complete the call. Mullin Testimony, p. 3.

Bell Atlantic criticizes SNET's Plan for proposing to compensate wireless carriers only for a relatively narrow category of telecommunications traffic, i.e. calls which originate on SNET's network and are delivered to a wireless carrier by SNET on Type II - Land to Mobile access facilities. According to Bell Atlantic, this represents an extremely limited subset of all communications traffic between carriers and fails to adequately recognize the level of expense incurred by the interconnected carriers in supporting other types of communications traffic. Specifically, Bell Atlantic argues that the Plan fails to offer compensation to wireless carriers for any call delivered to the wireless carrier by SNET (1) over Type I Access facilities; (2) over Type II Access facilities, but using another interexchange carrier (IXC) to carry the interexchange portion of the call; and (3) over Type II Access facilities originating from CLECs. Bell Atlantic argues that the Plan constitutes a purposeful exclusion by SNET of a significant amount of traffic terminated by wireless carriers, thereby compounding any inequity presented by SNET's proposed mutual compensation plan. Id., pp. 4-6.

IV. DEPARTMENT ANALYSIS

A. INTRODUCTION

In its January 11, 1995 Decision in Docket No. 94-08-02, the Department directed SNET to develop and present to this Department for consideration a mutual compensation plan. The Department also directed SNET to continue its discussions with the various wireline and wireless carriers and ultimately address in its proposal, to the extent possible, the respective needs and concerns of the affected providers. January 11, 1995 Decision, p. 22. On March 31, 1995, SNET filed with the Department in Docket No. 94-10-02, a proposed mutual compensation plan for wireless carriers.

The proposed Plan offered by SNET is purposefully designed to mirror the proposed wireline compensation structure and access charge structure also submitted by SNET in Docket No. 94-10-02. SNET Wireless Mutual Compensation Plan, p. 2. SNET acknowledges that some differences in the manner in which wireless carriers functionally and technically interconnect with the SNET switched network result in a less than perfect cost match with interconnections between wireline carriers. SNET is of the opinion, however, that application of the same criteria for mutual compensation to wireless carriers as proposed for the CLECs in Docket No. 94-10-02 is appropriate. SNET also contends that the rate to be paid to wireless carriers for traffic terminated on their network should be the same rate as that imposed on CLECs, unless the individual companies agree on a different rate. Fawcett Testimony, p. 2.

B. DEPARTMENT JURISDICTION

Several participants in this proceeding question the jurisdiction of the Department to undertake the instant investigation. The following discussion details the authority pursuant to which the Department addresses the issues in this docket.

In conjunction with implementation of the Omnibus Budget Reconciliation Act of 1993, the Federal Communications Commission (FCC) was presented with the need to interpret two newly defined categories of mobile services, commercial mobile radio service (CMRS) and private mobile radio service (PMRS). In so doing, the FCC anticipated that its definitions would satisfactorily encompass all existing mobile services as well as any future mobile services.

Commercial mobile radio service is defined by the FCC as:

> A mobile service that is: (1)(A) provided for profit, i.e., with the intent of receiving compensation or monetary gain; (B) an interconnected service; and (C) available to the public, or to such classes of eligible users as to be effectively available to a substantial portion of the public; or (2) the functional equivalent of such a mobile service described in paragraph (1).

47 CFR 20.3

In its Second Report and Order of Docket No. 93-252, In the Matter of Implementation of Sections 3(n) and 332 of the Communications Act, the FCC determined that, by its own definition, existing cellular services are most appropriately categorized as Commercial Mobile Radio Service providers, as are interconnected specialized mobile radio services (SMR) that meet the criteria stated in the CMRS definition. Second Report and Order at ¶88. Further, in that proceeding, the FCC established a presumption that Personal Communications Services (PCS) will be classified as CMRS at such time that entities are authorized to provide the service. Second Report and Order at ¶119.

The Second Report and Order also pronounced the FCC principle of mutual compensation for interstate traffic specifically originating on LEC facilities and specifically terminating on CMRS facilities, which principle is embodied in 47 CFR 20.11(b).[4] This principle of mutual, but limited, compensation is predicated upon an

[4] 47 CFR 20.11(b) Local exchange carriers and commercial mobile radio service providers shall comply with principles of mutual compensation.

(1) A local exchange carrier shall pay reasonable compensation to a commercial mobile radio service provider in connection with terminating traffic that originates on facilities of the local exchange carrier.

(2) A commercial mobile radio service provider shall pay reasonable compensation to a local exchange carrier in connection with terminating traffic that originates on the facilities of the commercial mobile radio service provider.

EXHIBIT C

FCC interpretation that CMRS providers will incur certain costs associated with complying with the requirements for "reasonable interconnection" prescribed by § 201(a) of the Communications Act of 1934 which they are legitimately entitled to recover. Participants in this docket argue that the principle of mutual compensation is not restricted to interstate traffic, but should apply equally to intrastate traffic, and that, consequently, § 201(a) of the Communications Act of 1934 mandates LECs pay mutual compensation for intrastate traffic originating on LEC facilities and terminating on CMRS facilities. OCC Written Exceptions to Interim Draft Decision, pp. 2, 3, Litchfield Written Exceptions to Interim Draft Decision, pp. 7-9; Litchfield Written Exceptions to Second Draft Decision, pp. 2-6; Nextel Written Exceptions to Interim Draft Decision, pp. 8, 9; Nextel Written Exceptions to Second Draft Decision, pp. 3-6; Pagenet Written Exceptions to Interim Draft Decision, p. 2, Bell Atlantic Written Exceptions to Interim Draft Decision, pp. 1-3; Bell Atlantic Written Exceptions to Second Draft Decision, pp. 2-4; MCB Written Exceptions to Interim Draft Decision, p. 2-4; Springwich Written Exceptions to Second Draft Decision, pp. 2-4. After considering the points raised by the participants, the Department is of the opinion that any extension of the FCC mutual compensation principles to the instrastate arena disregards the purposefully limited application envisioned by the FCC in 47 CFR 20.11 and the history surrounding it, as detailed below.

In a series of orders and decisions, the FCC has repeatedly affirmed its position that rates for both physical interconnection and mutual compensation for intrastate services are exclusively subject to state jurisdiction. In its review of the FCC's decisions in this area, the Department has not discerned any recent departure from this established and generally accepted policy, and participants have not cited any in this proceeding. The FCC's underlying philosophy is clear and unaltered through a series of related decisions, beginning with its decision in Indianapolis Telephone Company v. Indiana Bell Telephone, 1 FCC Rcd 228 (1986) (Indianapolis). In Indianapolis, the FCC adjudicated a complaint from Indianapolis Telephone, a cellular services provider, that Indiana Bell refused to provide "reasonable interconnection" in violation of both §§ 201(a) and 202 of the Communications Act, and of the FCC's own previous Cellular Decisions.[5] "Reasonable interconnection," Indianapolis Telephone argued, required that Indiana Bell enter into technical and financial arrangements with cellular carriers equivalent to those employed by Indiana Bell with local independent telephone companies. Those agreements provided for mutual compensation under bill and keep billing arrangements wherein each party retained all of the revenues generated on their networks to compensate for costs of terminating traffic on their networks for which they were not separately compensated.

The FCC concluded that whether the Cellular Decisions do in fact dictate any type of financial arrangement for interconnection in the interstate arena is immaterial

[5] Cellular Communications Systems, 86 FCC 2d 469 (1981) ("Order"), *recon.*, 89 FCC 2d 58 (1982) ("Reconsideration Order"), *further recon.*, 90 FCC 2d 571 (1982) ("Further Reconsideration Order") are known collectively as the FCC's "Cellular Decisions." The Cellular Decisions generally established a regulatory framework for the licensing and operation of commercial cellular systems, and established requirements for the interconnection of non-wireline cellular carriers.

since the FCC "does not have any jurisdiction over particular aspects of carrier-to-carrier financial arrangements . . . where these arrangements solely relate to intrastate communications." 1 FCC Rcd at 229, 230 ¶ 10. According to the FCC, "compensation arrangements for cellular interconnection were properly left to negotiations between the carriers involved or, in the end, subject to state regulatory jurisdiction." The FCC therefore, dismissed that portion of Indianapolis Telephone's complaint. Id.

The FCC reiterated its principle of limited application the following year in its Interconnection Order, 2 FCC Rcd 2910 (1987). In that docket, cellular operators argued in favor of mutual compensation for switching charges in the interstate context, and local exchange companies attempted to use the Indianapolis decision to negate those requests. The FCC, in ordering interstate mutual compensation, stated that the local exchange companies' reliance on Indianapolis was misplaced because that decision "applied to financial arrangements relating 'solely to intrastate communications.'" 2 FCC Rcd 2910 at 2915, ¶ 44, citing Indianapolis. The FCC, therefore, still interpreted intrastate mutual compensation as being subject to state jurisdiction.

The principles espoused by, and the policies established in, the FCC Cellular Decisions regarding "reasonable interconnection" are extended through to the Second Report and Order of Docket No. 93-252, In the Matter of Implementation of Sections 3(n) and 332 of the Communications Act. The Second Report and Order, which was issued subsequent to passage of the Omnibus Budget Reconciliation Act, explicitly states in Paragraph 232 that its limited principle of interstate mutual compensation is in keeping with its previous decisions, and further specifically references in a footnote the Interconnection Order. The Interconnection Order in turn cites Indianapolis as the basis for its conclusions. The FCC, therefore, did not alter previously existing policies in this area in response to the Omnibus Budget Reconciliation Act of 1993. In light of the foregoing, the Department concludes that it has the authority to conduct this proceeding and adjudicate issues of mutual compensation for intrastate telecommunications services.

It is also worth noting that if the FCC were to have interpreted its responsibilities in this area differently and suggested broader application of its policy of mutual compensation to both interstate and intrastate traffic, such a policy would certainly be of joint Federal-State concern, as it would clearly affect the costs of local exchange companies and state policies regarding those companies. Pursuant to established protocols outlined in 47 U.S.C. 410(c), it is reasonable to assume that the FCC would refer such common carrier communications matters that are of joint Federal-State concern to a Federal-State Joint Board. The absence to date of any initiated Joint Board on this particular subject lends further credence to the Department's conclusion that the FCC's announced mutual compensation principle applies only in the interstate context.

After reviewing the procedural practices of the FCC and of this Department, it is reasonable to conclude that sufficient statutory authority exists, and will continue to exist, to permit this Department to investigate upon its own initiative any proposal by

SNET to compensate any other telecommunications network provider for access to or use of that provider's infrastructure. Such proposed financial agreements may ultimately impact upon basic service costs and are, accordingly, a matter of interest to this Department and the Connecticut public.

C. WIRELESS MUTUAL COMPENSATION

1. Scope of the Inquiry

Public Act 94-83 does not mandate specific Department action with respect to mutual compensation. The Department, therefore, must be guided in its effort by the general statutory mandates to foster competition and protect the public interest. In the Department's view, this proceeding represents the first opportunity for the Department to begin to clearly define the future scope of its own participation in a market where the interactions of the participants must be increasingly shaped by the many forces of competition and not the many faces of regulation. Therefore, the Department has approached the issues in this proceeding with relative caution and conservatism, seeking to ensure that its positions and policies in this matter are consistent with its previously stated commitments to foster full and fair competition.

This proceeding was initiated to review a proposed mutual compensation plan developed by SNET and proposed for use with a select category of wireless services providers. By initiating this proceeding, the Department is not attempting to expand its authority over companies currently licensed by the FCC to provide wireless communications services. Rather, the Department initiated this docket in recognition of its authority over SNET as a local exchange carrier.

The Department, therefore, does not view this proceeding as an infringement on the authority of any other regulatory agency, as an extension of this agency's powers to regulate wireless communications services or as an impediment to implementation of Public Act 94-83. To the contrary, the Department considers this proceeding a relatively conservative effort to ensure any financial obligation incurred by SNET to achieve the goal of an "advanced telecommunications infrastructure" as required by Section 16-247a(4) and Departmental mandate in Docket 94-07-01 is both prudent and proper. This is consistent with the Department's past history and represents no new interpretation by it of either its statutory responsibilities or its jurisdictional authority.

2. Context of the Inquiry

Throughout the proceedings to implement Public Act 94-83, the Department has been driven by the legislative mandate to foster competition while protecting the public interest. To that end, the Department has streamlined the procedures for obtaining a certificate of public convenience and necessity to offer telecommunications service in Connecticut and has implemented the legislative desire that the local service markets of Connecticut be open to competition. At the same time, the Department has established requirements necessary in a multi-provider local service market to protect the interests of the Connecticut public.